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## Governor Expands Access to Telehealth Services Executive Order No. (7G)

In response to the ongoing developments regarding the COVID-19 outbreak, and building on the Governor's previous orders, Governor Lamont issued Executive Order No. (7G) on March 19th to address, among other things, the availability and expansion of telehealth services in Connecticut.

### **Telehealth Expansion:**

Section 19a-906 of the Connecticut General Statutes sets forth the rules and requirements that health care providers must abide by to provide telehealth services to Connecticut residents. Executive Order No. (7G) modifies and/or suspends the requirements of C.G.S. § 19a-906 and any associated regulations or policies as follows:

1. **Audio-Only Phone Calls Now Qualify As Telehealth.** The current definition of what qualifies as "telehealth" expressly excludes audio-only phone calls. Executive Order No. (7G) temporarily and expressly revises the definition of telehealth to state that audio-only telephone calls will now qualify as telehealth. Please note, however, that this revised definition only applies to telephone calls between providers and their established patients (i.e. there is already an existing provider-patient relationship between the provider and the person they are calling). Finally, this revised definition applies to: (a) Medicaid enrolled providers and their established patients who are Medicaid beneficiaries; and (b) telehealth providers that are in-network providers for commercial fully insured health insurance providing covered telehealth services to patients with whom there is an existing provider-patient relationship.
2. **A Connecticut License is Not Required.** The requirement of C.G.S. § 19a-906 that a telehealth provider must have a Connecticut license to provide telehealth services to Connecticut residents is temporally suspended so long as the provider is either: (a) an enrolled provider in Connecticut's Medicaid program; or (b) an in-network provider for a commercial fully insured health insurance plan that covers a member who lives in Connecticut. In essence, this means that Connecticut residents have access to providers across the country and may receive telehealth services from said providers even if any given provider does not have a Connecticut license.



3. **Certain HIPAA Requirements Temporally Relaxed.** Consistent with CMS's and OCR's pronouncements (see our Coronavirus Resource Center at <https://shipmangoodwin.com/Coronavirus-COVID-19-Guidance> for these other pronouncements), Executive Order No. (7G) provides that non-HIPAA compliant communication technologies will be permitted for the time-being. Please note that OCR expressly states that it will permit the use of certain popular, public facing video chat applications, including Apple FaceTime, Facebook Messenger video chat, Skype, and Google Hangouts video, which are all available with private, non-public video components. However, OCR also specifically disallows the use of certain other public facing video apps such as TikTok, Facebook live, and Twitch, which should not be used for providing telehealth.
  
4. **Provider Reimbursement for Patients Who are Not CT Medicaid Beneficiaries or Covered by a Fully Insured Commercial Plan.** For a provider who elects to provide telehealth services for a patient who is not a Medicaid beneficiary or covered by a fully insured commercial plan, he/she may provide telehealth services to such individuals provided that: (a) prior to engaging in such services, the provider determines (i) whether a patient is covered by a health plan other than Medicaid or a fully-insured commercial plan, and (ii) whether such plan provides coverage for such telehealth services; (b) a provider who receives payment under such health plan shall not bill a patient for any additional charges beyond the reimbursement received under such health plan (i.e. no double-dipping); and (c) a provider who determines that payment is not available under another such health plan or who determines a patient is uninsured, shall accept as reimbursement for that service as payment in full, the amount that Medicare reimburses for such service, provided that if the provider determines that the patient is uninsured or otherwise unable to pay for such services, the provider shall offer financial assistance, if such provider is otherwise required to provide financial assistance under state or federal law.
  
5. **Facility/Location Requirement Waived.** Any related regulatory requirement that telehealth services be provided from a provider's licensed facility is hereby waived.

See the following link for the entire order: <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7G.pdf>

We expect to see additional Executive Orders from the Governor so stay tuned and refer to our Coronavirus (COVID-19) Resource Center at <https://shipmangoodwin.com/Coronavirus-COVID-19-Guidance>.

### **Questions or Assistance**

If you have any questions regarding Telehealth expansion or COVID-19, please do not hesitate to contact any member of our Health Law Practice Group listed on page 1.

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